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Attorneys for The Travelers Insurance Company

U.S. COURTS
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REC'D _____ FILED _____
CAMERON S. BURKE
CLERK IDAHO

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF IDAHO

In re:

HIPWELL, TERRY,

Debtor.

Case NO. 96-02095

THE TRAVELERS INSURANCE
COMPANY'S RESPONSE TO LAND
VIEW'S OBJECTION TO
TRUSTEE'S MOTION TO SELL

COMES NOW the Travelers Insurance Company ("Travelers") and files this Response to Land View Fertilizer, Inc.'s ("Land View") Objection to the Trustee's Motion to Sell Real Property. Travelers response is based upon the following facts and reasons:

1. The amount the Trustee has provided for distribution to Travelers does not pay Travelers' debt in full. In fact, the amount distributed to Travelers is approximately \$20,000 less than the total amount owed to Travelers. *See* Affidavit of K. Micheli. When the Trustee approached Travelers, it requested that Travelers take a discount so that Mr. Foley might have some of his fees paid. The Trustee also pointed out that Mr. Foley would not receive the full amount of his fees, that

THE TRAVELERS INSURANCE COMPANY'S RESPONSE
TO LAND VIEW'S OBJECTION TO TRUSTEE'S MOTION TO SELL - 1

the broker was taking a one-half of a percent reduction in order, and that under his distribution all parties would receive some portion from the sale proceeds though virtually no one would be paid in full.

2. The Trustee indicated, at the time that it requested Travelers take a discount, that it had no objection to Travelers' fees and/or interest charges. The Trustee simply requested that Travelers accommodate the distribution as stated in its Motion. After due consideration of all the facts and circumstances, Travelers determined that the distribution was acceptable to it, considered it to be fair to all parties, and agreed to the Trustee's distribution. Travelers' agreement with the Trustee not to object to the sale was contingent upon the distribution being made as noted in the sale notice. Travelers did not agree to any other proposed distribution of the funds.

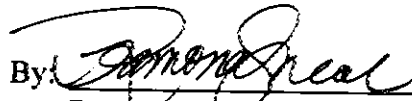
3. Travelers notes for the record that Land View does not have any objection to the sale price of the Hipwell property, and that its Objection is based solely upon the distribution of the funds.

4. In the event that this Court allows Land View's Objection, Travelers asserts that it is entitled to any funds which are redistributed as a first position lien holder on the real property.

5. The amounts which have been provided in the distribution are actually funds to which Travelers could lay claim. Travelers respectfully asserts that Land View has no standing to object to the distribution as it is not entitled to those funds.

Respectfully submitted this 3rd day of August, 1998.

GIVENS PURSLEY LLP

By: 

Ramona S. Neal
Counsel for The Travelers Insurance Company

CERTIFICATE OF SERVICE

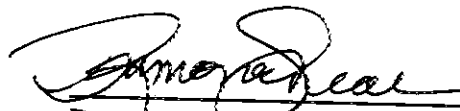
I hereby certify that on August 3, 1998 I caused to be served a true and correct copy of the foregoing to each of the persons named below by the method indicated below each of their names.

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